

Remarks

Claims 3, 4, 18-32 and 34-47 are pending in the application. Claims 40-47 have been allowed. Claims 3, 4, 18-32 and 34-39 have been rejected. Claims 3, 18, 34 and 40 have been amended. Claim 25 has been canceled.

Entry of the foregoing amendments, and reexamination and reconsideration of the present application in light of the foregoing amendments and the following remarks are respectfully requested.

Claims 3, 18 and 34 have been amended by merging the subject matter of claim 25 into each claim.

Claim 40 has been amended by changing its dependency from claim 41 to claim 34. This is being done to correct a typographical error.

35 USC § 102(b) Rejections:

Claims 3, 18-20, 23-25, 31, 32 and 34-36 have been rejected under 35 U.S.C. §102(b) as being anticipated by Derwent Document number 1983-848572 (RD-23619A). The Examiner contends the reference teaches adhesion between co-extruded polyester films and ethylene-vinyl alcohol copolymer films improved with an intermediate bonding layer comprising a blend of EVA and ethylene-vinyl alcohol copolymer, or a partially hydrolyzed terpolymer of ethylene, methacrylic acid and vinyl acetate. The Examiner contends that the adhesive compositions are useful as tie layers in coextruded films and of polyesters such as PET and high barrier EVOH to increase the bond strength between the layers. The Examiner also contends that the products may be in the form of flat film for packaging or as pipe for the production of parisons for blow molding into bottles having good gas barrier properties.

This rejection is respectfully traversed. The Applicants' independent claims 3, 18 and 34 specify a polyester base layer and a coating layer comprising an adhesive resin and a hydrophilic polymer selected from cellulosic polymers, polyvinyl alcohol, polyvinyl pyrrolidone, dextran, nylons, polyamides, hydroxyethyl methacrylate, starches and gelatins. Claim 31 specifies that the hydrophilic polymer is polyvinyl alcohol. On the other hand, the Derwent reference discloses an intermediate bonding layer comprising a blend of ethylene vinyl acetate copolymer (EVA) and ethylene-vinyl alcohol copolymer. Ethylene-vinyl

alcohol copolymer is not one of the hydrophilic polymers specified in Applicants' claims 4, 18, 31 or 34. Thus, the Derwent reference does not anticipate Applicants' claims 3, 18, 31 and 34.

Since claims 19, 20, 23-25 depend from claim 18, claim 32 depends from claim 31, and claims 35-36 depend from claim 34, Applicants respectfully submit that these claims are also not anticipated by the teachings in the Derwent reference.

Withdrawal of the rejection of Applicants' claims 3, 18-20, 23-25, 31, 32 and 34-36 as anticipated by the Derwent reference is believed to be warranted and is respectfully requested.

35 USC § 103(a) Rejections:

Claims 4, 21, 22, 25-30 and 36-39 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Derwent reference. The Examiner contends that it would have been obvious to one having ordinary skill in the art to have varied the thickness of the films depending on the end use and to biaxially orient/heat stabilize them since this is conventionally done to make strong PET packaging films. The Examiner also contends that ethylene vinyl alcohol copolymers as taught by the prior art could be used for the polyvinyl alcohol as claimed by Applicants because they are functionally equivalent materials, especially when the resin has low ethylene content.

This rejection is respectfully traversed. Claim 4 depends from claim 3; claims 21, 22 and 25-30 depend from claim 18; and claims 36-39 depend from claim 34. These claims are distinguished from the teachings of the Derwent reference for the same reasons claims 3, 18 and 34 are distinguished from the teachings of the Derwent reference. Moreover, there is no specific teaching in the Derwent reference for using polyvinyl alcohol in place of the ethylene vinyl alcohol copolymer taught by the prior art. To contend that it would have been obvious to substitute polyvinyl alcohol for the ethylene vinyl alcohol copolymer, without more (for example, a secondary reference) constitutes nothing more than hindsight speculation. Similarly, the contention that heat stabilizing and varying the thickness of the base layer would have been obvious in view of the teachings in the Derwent reference constitutes nothing more than hindsight speculation.

Withdrawal of the rejection of Applicants' claims 4, 21, 22, 25-30 and 36-39 as obvious in view of the Derwent reference is believed to be warranted and is respectfully requested.

Conclusion

In view of the foregoing, Applicants respectfully request reconsideration and a timely issuance of a notice of allowance for claims 3, 4, 18-32 and 34-47.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Attorney Docket No. **AVERP3423USB**.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By



Neil A. DuChez, Reg. No. 26,725

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113